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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,979	01/16/2001	James S. Chester	FIS9-2000-0314US1	6038
32074	7590	11/10/2004	EXAMINER	
INTERNATIONAL BUSINESS MACHINES CORPORATION DEPT. 18G BLDG. 300-482 2070 ROUTE 52 HOPEWELL JUNCTION, NY 12533			BATES, KEVIN T	
			ART UNIT	PAPER NUMBER
			2155	
DATE MAILED: 11/10/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/760,979

Applicant(s)

CHESTER, JAMES S.

Examiner

Kevin Bates

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-11,15-22 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-11,15-22 and 25-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

This Office Action is in response to a communication made on September 2, 2004.

Claims 1, 4-11, 15-22, and 25-31 are pending in this application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-11, 15-22, and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gudjonsson (6564261) in view of Bixby (5317568).

Regarding claims 1 and 22, Gudjonsson discloses a method for use by a service provider to facilitate communication between customers of the service provider (Column 7, lines 35 – 39), the method comprising the steps of receiving a request from a customer to establish communication with another customer (Column 9, line 62 – Column 10, line 7); confirming the identity of each customer (Column 9, lines 56 – 60); transmitting to each customer executable code enabling encrypted communication therewith (Column 11, lines 39 – 43); obtaining from each customer information regarding the customer's computing environment (Column 27, lines 13 – 22), said confirming, transmitting, and obtaining being performed via the Internet (Column 32, lines 27 – 40); preparing a set of applications for use by each customer, in accordance with said information and said request; transmitting the set of applications as executable

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code to each customer (Column 12, lines 19 – 41); establishing a communication path to each customer by contacting a vendor of connectivity services (Column 2, lines 62 – 65; Column 3, lines 14 – 37) via the Internet to obtain (Column 32, lines 27 – 40) said services for use by the customers (Column 3, lines 14 – 37); and specifying the communication path to the customers, thereby permitting the customers to communicate over said path using said applications (Column 8, lines 27 – 29), but does not explicitly indicate the idea of altering the communication path during said communication in accordance with customer requirements. Bixby discloses a system for connecting end users from arbitrary networks (Column 3, lines 33 – 46). As part of Bixby's system, it is discloses that the user gets a virtual path number which to send to the network nodes to specify the path to the destination (Column 69, lines 39 – 46) and that the virtual path that corresponds to the number can alter with the conditions of the network (Column 70, lines 49 – 67) and according to customer requirements (Column 68, lines 38 – 51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow an allocated path between end users to be altered according to Bixby's system in Gudjonsson's system in order to allow load balancing of the network in Gudjonsson's system (Column 70, lines 35 – 42; lines 60 – 67).

Regarding claim 11, Gudjonsson discloses a system for facilitating communication between customers of a service provider (Column 7, lines 35 – 39), the system comprising: a server connected to the Internet (Column 2, lines 16 – 29), the server being enabled to perform a method including the steps of receiving a request from a customer to establish communication with another customer (Column 9, line 62 –

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Column 10, line 7), confirming the identity of each customer (Column 9, lines 56 – 60), transmitting to each customer executable code enabling encrypted communication therewith (Column 11, lines 39 – 43), obtaining from each customer information regarding the customer's computing environment (Column 27, lines 13 – 22), said confirming, transmitting, and obtaining being performed via the Internet (Column 32, lines 27 – 40), preparing a set of applications for use by each customer, in accordance with said information and said request, transmitting the set of applications as executable code to each customer (Column 12, lines 19 – 41), establishing a communication path to each customer by contacting a vendor of connectivity services (Column 2, lines 62 – 65; Column 3, lines 14 – 37) via the Internet to obtain (Column 32, lines 27 – 40) said services for use by the customers (Column 3, lines 14 – 37), and specifying the communication path to the customers, thereby permitting the customers to communicate over said path using said applications (Column 8, lines 27 – 29), but does not explicitly indicate the idea of altering the communication path during said communication in accordance with customer requirements. Bixby discloses a system for connecting end users from arbitrary networks (Column 3, lines 33 – 46). As part of Bixby's system, it is discloses that the user gets a virtual path number which to send to the network nodes to specify the path to the destination (Column 69, lines 39 – 46) and that the virtual path that corresponds to the number can alter with the conditions of the network (Column 70, lines 49 – 67) and according to customer requirements (Column 68, lines 38 – 51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow an allocated path between end users to be altered

according to Bixby's system in Gudjonsson's system in order to allow load balancing of the network in Gudjonsson's system (Column 70, lines 35 – 42; lines 60 – 67).

Regarding claims 4, 15, and 25, Gudjonsson discloses that the communication path is established for a limited time period (Column 17, line 59 – Column 18, line 14).

Regarding claims 5, 16, and 26, Gudjonsson discloses that said preparing step comprises obtaining at least one of the applications via the Internet (Column 2, lines 16 – 29; Column 12, lines 19 – 41).

Regarding claims 6, 17, and 27, Gudjonsson discloses that said method is performed using an edge of-network server (Column 9, lines 62 – 66; lines 41 – 43).

Regarding claims 7, 18, and 28, Gudjonsson discloses that said preparing step comprises obtaining at least one of the applications from a storage device connected to the server (Column 8, lines 37 – 40).

Regarding claims 8, 19, and 29, Gudjonsson discloses that the specified communication path is established on the Internet and communications using the path are encrypted, so that the customers participate in a secure virtual trading zone (Column 8, lines 23 – 34).

Regarding claims 9, 20, and 30, Gudjonsson discloses that the step of monitoring the communication path (Column 7, lines 52 – 57).

Regarding claims 10, 21, and 31, Gudjonsson discloses that said obtaining step is performed using an applet resident at the customer (Column 14, lines 54 – 58).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 11, and 22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB

KB  
November 3, 2004

*Hosain Alam*  
HOSAIN ALAM  
PATENT EXAMINER